

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
SOUTHCENTRAL REGION LAND OFFICE**

**PRELIMINARY BEST INTEREST FINDING
AQUATIC FARMSITE LEASE AMENDMENT**

**APPLICANT: Joseph & Debra Carl
ADL #107064**

LOCATION: North of Nossuk Bay

The Department of Natural Resources is accepting public comment on the following preliminary decision document for an amendment of an existing aquatic farm site. **Written comments must be received on or before 5:00 p.m., Thursday, September 15, 2011.**

PROPOSED ACTION: The applicant is requesting the approval of a 0.27 acre area of tide and submerged land for the purpose of relocating an existing caretaker facility from Nossuk Bay to an area located north of Nossuk Anchorage, approximately 20 miles northwest of Craig, Alaska or approximately 14 miles southeast of Edna Bay. The applicant is proposing to add a 100 ft. x 120 ft. area to be used to hold three support facilities including a caretaker "watchman" barge (20 ft. x 60 ft.), a crew barge (16 ft. x 25 ft.), and a log float (20 ft. x 60 ft.). The support facility floats will be grouped together with an L-shaped floating dock.

The new area is outside of the pre-approved HB-208 designated Nossuk Bay area. The relocation is necessary due to high winds and waves during storms which occur at the present site. The new site area has been used in the past by logging activity until 1999. The site is out of navigable waters and has a shallow entrance for skiffs only at half-tide.

The total acreage of the proposal is 0.27 acres.

The proposed farm site locations are only accessible by boat. A location map is attached to this decision.

AUTHORITY: AS 38.05.035; AS 38.05.070; AS 38.05.075; AS 38.05.083; AS 38.05.127;
AS 38.05.128; 11 AAC 63.020

This decision addresses and is based on those issues under the authority of the Department of Natural Resources (DNR) under Title 38. While other issues may be addressed that are not within the scope of DNR's responsibilities this decision's purpose is to determine whether or not to approve the amendment and make it part of the existing DNR lease and does not make any determinations whatsoever on the issuance of other agency authorizations that are necessary for aquatic farming activities. Information included in the original preliminary decision document may not be included in this document if conditions have not been altered. Original preliminary decisions for this lease can be obtained by contacting the aquatic farm program manager for the DNR in Anchorage.

ADMINISTRATIVE RECORD: The administrative record for this renewal application is ADL 107064.

LOCATION:

USGS MAP COVERAGE: Craig (D-5) Quadrangle

NAUTICAL CHART: 17404

LEGAL DESCRIPTION:

Those tide and submerged lands located in southeast Alaska lying within:

Township 71 South, Range 79 East, Copper River Meridian,

W ½ of Section 5 – north of Nossuk Anchorage, encompassing an area measuring 100 feet by 120 feet for caretaker facilities in conjunction to the existing aquatic farm lease in Nossuk Bay.

The four corners of the proposed NEW parcel 3: support caretaker and work facility area (100 ft. x 120 ft):

NE Corner: Latitude 55 44.641 N Longitude 133 20.205 W
SE Corner: Latitude 55 44.629 N Longitude 133 20.221 W
SW Corner: Latitude 55 44.644 N Longitude 133 20.254 W
SE Corner: Latitude 55 44.53 N Longitude 133 20.238 W

Parcels are located in the Ketchikan Recording District.

GEOGRAPHIC: The proposed caretaker facility is to be located on state-owned tide and submerged lands north of Nossuk Bay, north of Nossuk Anchorage, east of Tonowek Bay, off the west shore of Prince of Wales Island.

POLITICAL INFORMATION:

BOROUGH/MUNICIPALITY: This existing aquatic farm application is outside of an organized borough.

REGIONAL CORPORATION: Sealaska Corporation

FISH AND GAME ADVISORY COMMITTEES: Edna Bay Fish and Game Advisory Committee and the Craig Fish and Game Advisory Committee.

PLANNING AND CLASSIFICATION:

LAND MANAGEMENT PLAN: Prince of Wales Area Plan, Unit 10, Shaheen, Subunit 10b, Tonowek Bay. The tidelands in the proposed area north of Nossuk Anchorage are designated General Use (Gu). General use lands are lands which may have a number of important resources but for which a specific resource allocation decision is not possible because of inadequate economic, resource or other information; or is presently inaccessible and remote and development is not likely to occur within the next 10 years; or contains one or more resource values, none of which is of sufficiently high value to merit designation as a primary use.

The management intent for aquatic farming in Subunit 10b, Tonowek Bay states that aquatic farming should locate in a place and in a manner that will have minimum impacts on primary designated uses.

MANAGEMENT INTENT AND GUIDELINES: State tidelands and submerged lands are to be managed for multiple use.

SURFACE MINERAL ORDERS: All state lands are open to mineral entry in this subunit.

CULTURAL RESOURCES: Cultural sites are located in Kaguk Cove, Nossuk Bay, and on small islands at the southern end of Tuxekan Passage. There are no known cultural sites in the proposed amendment area.

SURVEY AND APPRAISAL:

SURVEY: A survey is not required by law before issuing a 10-year negotiated lease. However, the department has the right to require one in the future, at the applicant's expense, if boundary conflicts or disputes over acreage arise.

APPRAISAL: The Division of Mining, Land and Water has approved an administrative lease fee schedule for aquatic farm sites that meet the conditions listed within the schedule. The most current lease fee schedule will be used to establish the fair market rental each lessee must pay. The applicant has the option to have a site-specific appraisal done, at the applicant's expense, before the lease is issued, if he or she does not wish to use the fee schedule. If an applicant opts for a site-specific appraisal, the division-approved appraisal will establish the rental for the lease and the fee schedule will no longer be an option.

PUBLIC/AGENCY NOTICE AND COMMENTS: Public notice of the proposal has been sent to various newspapers, post offices, agencies, boroughs/cities, native corporations, Fish and Game Advisory committees, etc. Public and agency comments are welcome during the comment period and will be considered in the final best interest finding. Only those who provide written comments during the comment period or who testify at a public hearing will be sent a copy of the final best interest finding and will be eligible to appeal. The final best interest finding will include an explanation of the appeal process. **The public comment period begins on August 17, 2011 and will end at 5:00 p.m. on Thursday, September 15, 2011.**

The preliminary best interest finding is subject to public comments received during the comment period. The final best interest finding will consider and address any comments related to the subject proposal and will be available on or about October 10, 2011. If significant changes occur to this decision as a result of public comments received, additional notice will be sent to those who provided comments, either in writing or by testifying at a public hearing.

Evaluation by the Alaska Department of Fish and Game

I. Physical and Biological Characteristics: Based on the information provided by the applicant on the site physical and biological characteristics, the proposed site Parcel 3 is near his existing permitted Pacific oyster farm operations and is capable of supporting the farm activities proposed. Details listed for the proposed areas are summarized below.

Protection from Oceanographic and Atmospheric Extremes: The physical exposure notes from Alaska ShoreZone imagery mapped data¹ shows the area as "protected" defined as a maximum effective fetch of < or = to 10 km. The proposed support facility structures have a sound configuration and anchoring system and are comparable to existing farm gear used in Prince of Wales that can withstand ocean and atmospheric conditions.

Sufficient Environmental Conditions: Not applicable for an area holding support facilities.

Sufficient Water Depth: According to Attachment 7 of the application, the depth at the proposed new Parcel 3 is 22 ft at zero tide. Since no suspended gear at proposed for this new parcel, the

¹ NOAA (National Oceanic and Atmospheric Administration), Fisheries, National Marine Fisheries Service. Alaska ShoreZone: Coastal Mapping and Imagery. <http://akr-mapping.fakr.noaa.gov/szflex/> (Accessed July 2011).

depth appears to be sufficient to prevent any aquatic farm gear from grounding and affecting the benthos under the floating structures.

Eelgrass and Kelp Beds Maintained: Eelgrass and kelp habitats are among some of the most productive and biologically diverse. Among other things, eelgrass and kelp beds helps prevent erosion and maintain stability of near-shore environments and provide food, breeding areas, and protective nurseries for fish, shellfish, crustaceans, and many other animals. Operations must be done in a manner to minimize turbidity in the area and to prevent any trampling or shading that may impact the health and abundance of eelgrass beds. Alaska ShoreZone imagery data² shows patchy bio-bands of eelgrass, *Zoster* sp., adjacent to this area.

Anadromous Fish Streams: The proposed project site is not located within 300 feet of the mouth of an anadromous fish stream catalogued by ADF&G for various salmon species³. The proposed farm gear structures will not significantly affect fish rearing habitats for salmonids and other marine fishes in the area and will allow adequate fish passage for salmonid adults (chum, coho, and pinks) that may be milling or migrating through the area.

II. Existing Uses not Significantly Altered: The proposed aquatic farm site will not significantly alter an established use defined in regulations as a commercial fishery, sport fishery, personal use fishery, or subsistence fishery.

Commercial Fisheries: The proposed aquatic farm is located in ADF&G Commercial Fisheries Division statistical area sub-district 113-40. Commercial salmon purse seining (Chinook, sockeye, coho and pink salmon) and hand trolling (Chinook), commercial sea cucumber, and commercial Pacific herring fisheries all had landings in this statistical area during 2010. The proposed aquatic farm site project is not expected to cause any significant alterations to the existing commercial fishery uses in the area.

Sport Recreational Fishery: The proposed areas may be used by sport fishing and personal use harvest of fish, shellfish, and aquatic plants may occur in the proposed area. The area is not a significant site for Sport Anglers. Due to their design, oyster operations and gear have not had a significant negative impact on anglers. The proposed aquatic farm site is not expected to cause any significant alterations to the existing sport recreational fishery use.

Subsistence Use: Subsistence harvest of fish, shellfish, aquatic plants, and marine mammals by residents of Whale Pass, Craig and Klawock Community may occur in the area. Coffman Cove residents may harvest marine invertebrates in the area for subsistence according to Tongass Resource Use Cooperative Study (TRUCS) data. Naukati and Edna Bay residents have harvested marine invertebrates over the larger area of Sea Otter Sound, Davidson Inlet, El Capitan Passage and the near-shore waters of Prince of Wales Island and other major islands according to a 1997 household survey conducted by the Subsistence Division. The proposed amendment is not expected to cause any significant alterations to the existing subsistence use.

Anchorage: The area is not a critical vessel anchorage area.

III. Compatible with Fish and Wildlife Resources: The proposed aquatic farm site is compatible with fish and wildlife resources in the area.

² NOAA (National Oceanic and Atmospheric Administration), Fisheries, National Marine Fisheries Service. Alaska ShoreZone: Coastal Mapping and Imagery. <http://akr-mapping.fakr.noaa.gov/szflex/> (Accessed July 2011).

³Johnson, J. and K. Klein. 2009. Catalog of waters important for spawning, rearing, or migration of anadromous fishes – Southcentral Region, Effective June 1, 2009. Alaska Department of Fish and Game, Special Publication No. 09-03, Anchorage.

Predator and Pest Control Methods: Not applicable for this amendment.

Sensitive Wildlife: The proposed amendment is not expected to adversely affect seabird colonies, sea lion haulouts and rookeries, seal haulouts and pupping areas, and walrus haulouts.

Sea Bird Colonies: There are no sea bird colonies identified within 1 mile of the proposed sites.⁴

Eagle Nest: There are no eagle nests within 330 ft of the proposed project site parcels⁵

Sea Mammal Habitat: There are no sea mammal haul outs within 1 mile of the proposed sites⁶.

Endangered species: The proposed aquatic farm site will not adversely impact endangered and threatened species recovery and habitat efforts.

IV. Operation and Development Plan:

Increase Productivity/Maintenance/Rotation Schedule: No changes to the operation and development plan are required with this amendment.

V. Species to be Cultured and Site Suitability: No additional species are being requested, therefore, it is not applicable for this amendment.

ENVIRONMENTAL RISK ASSESSMENT: The applicant has submitted a signed environmental risk questionnaire. The questionnaire asks for information on potentially hazardous materials, such as plans for onsite storage of fuel or chemicals. The applicant has indicated that no on-site use, storage, transport, disposal, or otherwise, of any petroleum products will be used during the course of the proposed activities.

BONDING AND INSURANCE:

BONDING: Bonding, or another form of security, is required under AS 38.05.083 and 11 AAC 63.080. The bond must cover the costs of site cleanup and restoration, any associated cleanup costs after termination of the lease, including any unpaid rentals or other obligations accruing until site restoration is complete. The regulations require the minimum security amount of \$2,500 (or \$1,250 with an association bond) for an aquatic farm lease. Factors such as location and amount of improvements at the site are taken into consideration when the bond amount is determined.

INSURANCE: At this time the DNR does not require this type of activity to have general liability insurance. General liability insurance may be required in the future depending on the aquatic farming operations and the procedures of the department at the time changes are made to the lease or a renewal lease is issued. The lessee is responsible for acquiring other types of insurance, such as Workman's Compensation Insurance that may be required under other local/state/federal laws.

⁴ U.S. Fish and Wildlife Service, (current year). Beringian Seabird Colony Catalog -- computer database. U.S. Fish and Wildlife Service, Migratory Bird Management, Anchorage, Alaska 99503.

⁵ U.S. Fish and Wildlife Service, Migratory Bird Management. Alaska Bald Eagle Nest Atlas-computer database. 2008.

⁶ Analysis completed by NOAA Fisheries Service, Alaska Region, Protected Resources Division. Specifically, the data used to complete this analysis were provided by researchers from NOAA Fisheries Service, Alaska Fisheries Science Center, and National Marine Mammal Laboratory.

POTENTIAL CONFLICTS/PENDING INTERESTS: There are no known pending interests at the location of the proposal.

TRADITIONAL USE FINDING: The proposed aquatic farm would not appear to cause disruption of traditional and/or existing uses of the area, such as commercial and sport fishing, subsistence activities, boat travel, and recreation. Through agency and public input, more traditional and existing use information may surface. If such information becomes available, any potential and/or existing conflicts will be addressed in the final best interest finding.

Upland Owner/Management Intent: The U.S. Forest Service (Tongass National Forest) is the upland owner of the lands adjacent to the aquatic farm proposal.

CONSIDERATIONS: The following criteria set out in 11 AAC 63.050(b), has been considered and represents what is known at this time:

Land Management: There are no known land management policies or designations, other than those in the Prince of Wales Island Area Plan, and potentially the Tongass National Forest Land and Resource Management Plan that may impact this proposal. Measures taken to mitigate impacts on the resources identified in the above-mentioned plans are listed below.

Pending/Existing Uses:

1. There are no known pending use conflicts or potential impacts to nearby communities or residential land due to the placement of this farm at the proposed location.
2. Information available suggests the aquatic farm will not disrupt traditional and existing uses of the site for use as an anchorage, commercial and sport fishing, recreation, and tourism.
3. There are no historic and cultural resources known to exist in the area.
4. There are no commercial or industrial facilities known to exist in the area.

Public Access: Public access has been and will be protected in accordance with 11 AAC 63.050(b)(6) and 11 AAC 53 and will be addressed in any resultant lease agreement.

Public Trust Doctrine: Any resultant lease agreement is subject to the principles of the Public Trust Doctrine in order to protect the public's right to use navigable waters and the land beneath them for navigation, commerce, fishing, and other purposes.

Mitigation Measures: In addition to the mitigation measures identified above under Pending/Existing Uses, paragraph 2, any resultant lease renewal may include additional stipulations necessary to mitigate conflicts identified during the public/agency comment period

Social, Economic, and Environmental Concerns: There are no known significant social, economic, and environmental effects from the existing lease.

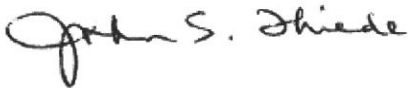
Surface Area: The proposal does not encumber more than a third of the surface area of a bay, bight, or cove in accordance with 11 AAC 63.050(c).

Aquatic farm sites have the opportunity to increase income and diversify the state's economy by utilizing state tide and submerged lands for this purpose. The advantage of issuing this lease on state owned tide and submerged lands is the continued employment opportunities as well as any secondary jobs created or increased from businesses involved in marketing, transport or sale of the farmed products.

After researching this proposal there seems to be no obvious disadvantages in issuing this activity on state

owned tide and submerged lands. The public should be aware that access through the site, as well as access to any of the common property resources not being cultured at the site are public uses that remain intact. Therefore, and as mentioned above, any resultant lease would stipulate the requirement that signs be posted informing the public of their rights at the aquatic farm site.

RECOMMENDATION: Considering the information known at this time and described within this decision, it appears to be in the state's best interest to amend the applicant's current lease and relocate existing facilities to an area with a foot-print size of 0.27 acres. Any resultant lease will include stipulations that may be identified as a result of public comments. Approval of the proposal is recommended. The security bond set at \$2,500 or \$1250 with an association bond will remain in effect.



John S. Thiede, Aquatic Farm Program Manager

August 15, 2011

Date

Other: Farmhouse & support relocation.

this site was discussed when Farm was applied for but it was slightly out of preapproved area we needed to wait and reapply for in 2011, this is why.

the change in needed for wind protection, also wave issues. Farm buildings will not survive volume of wind 60 to 100^{mph} plus winds several times of the year, wave build ups 3' to 4' during some of these storms

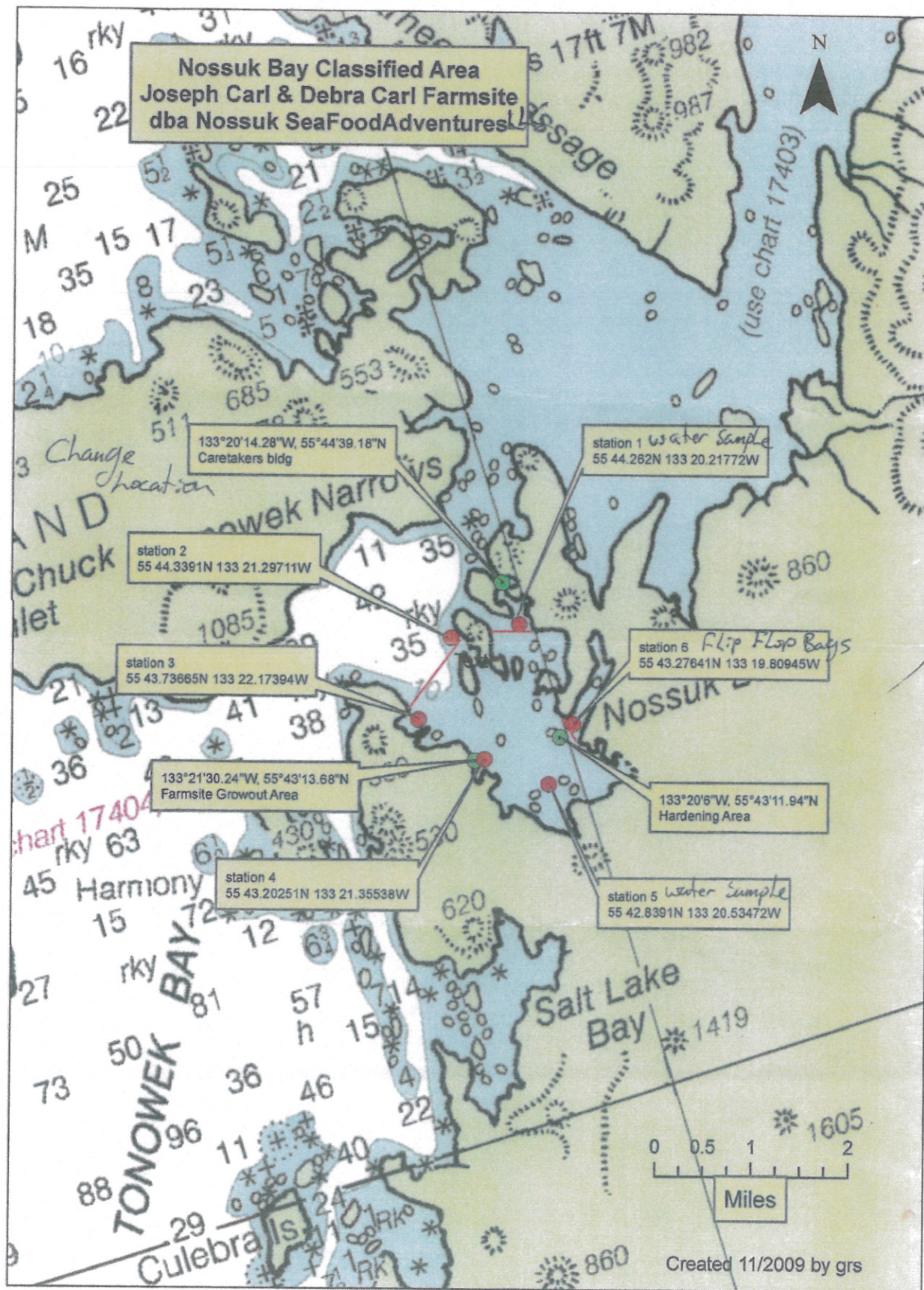
the site we would like has been used before several times by logging activity in area pre WWII to present 1999 timber industry collapse some tie ups still exist at site during storms wind protection is 80% greater, wave 95% greater same storms.

the site is far from navigatable waters: shallow entrance skiffs only 1/2 tide
few hunters & trappers some years
no streams

ADL 107064 Site Plan

Site 3 watchman/worker

1. waste water solid waste is either Incinerated toilet or contained in tanks on Barge in contained area in bldge of barge. Pumped tanks to Licesend solid wast disposal contractor
2. rain water contain ment building
3. solid waste disposal would be trucked to authorized Site by Licesend contractor 2 on price of wales
- 4 heavy water circulation tide Flow is swift narrow channel Flow South to North at ebb north to south on Flood
- 5 prevailing winds are not a factor, excelent shelter From Storm & thypen winds witch affect areed Fall, winter and spring SE, S, SW winds
- 6 Anadromous stream closest one 3mi away
- 7 nearest wild stock holding location Nantati Flopsy Anchors at this site were left by Previous Occupants ^{small} Logging Co.



FDL 107D64 Site Plan
Site 3 Fig 1 Watchman/worker

Barge Cabins
See Note: 100' x 120'

- + - tourism
- h - hunting
- r - recreation

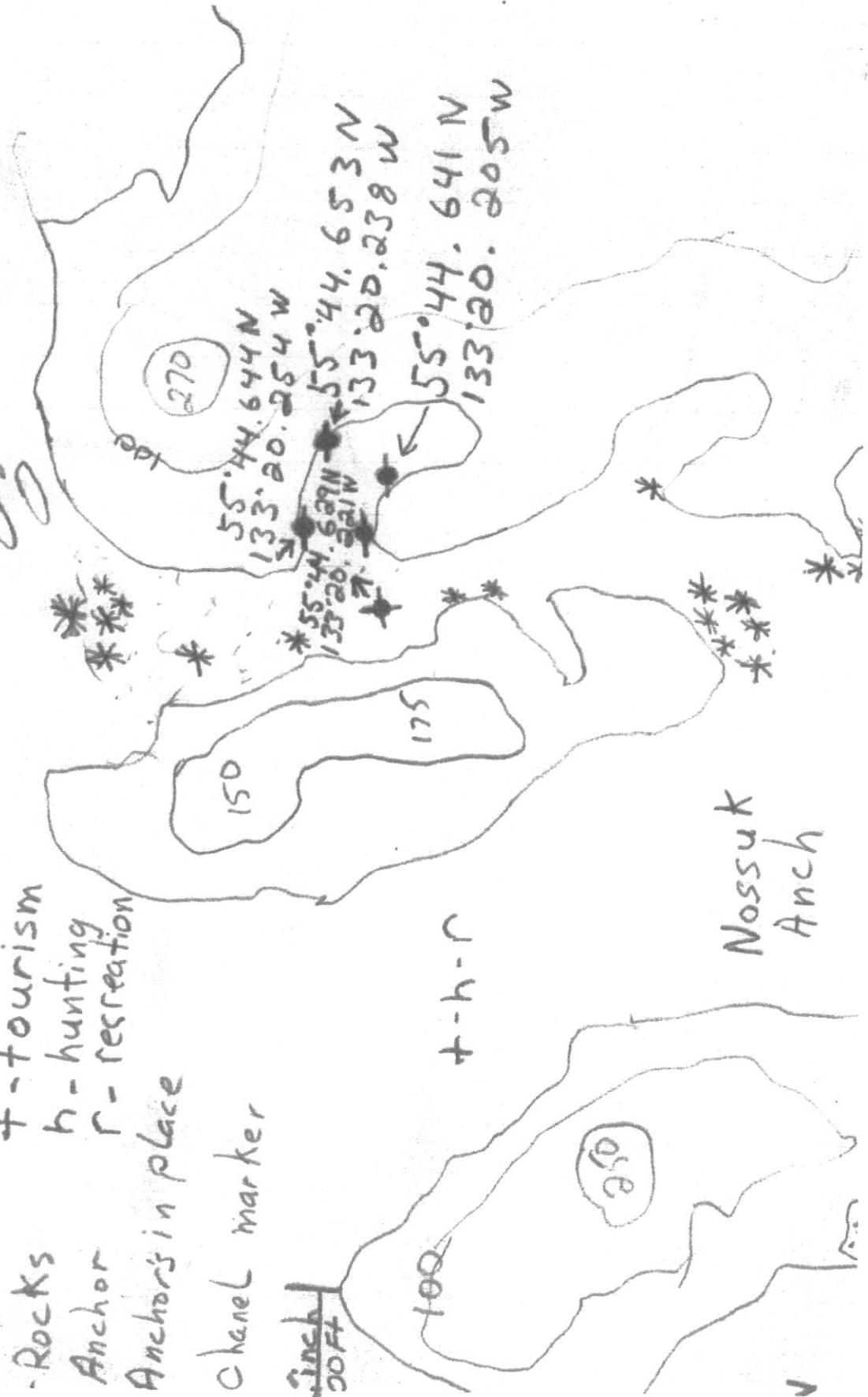
- Photo
- Rocks
- Anchor
- Anchor in place
- Channel marker

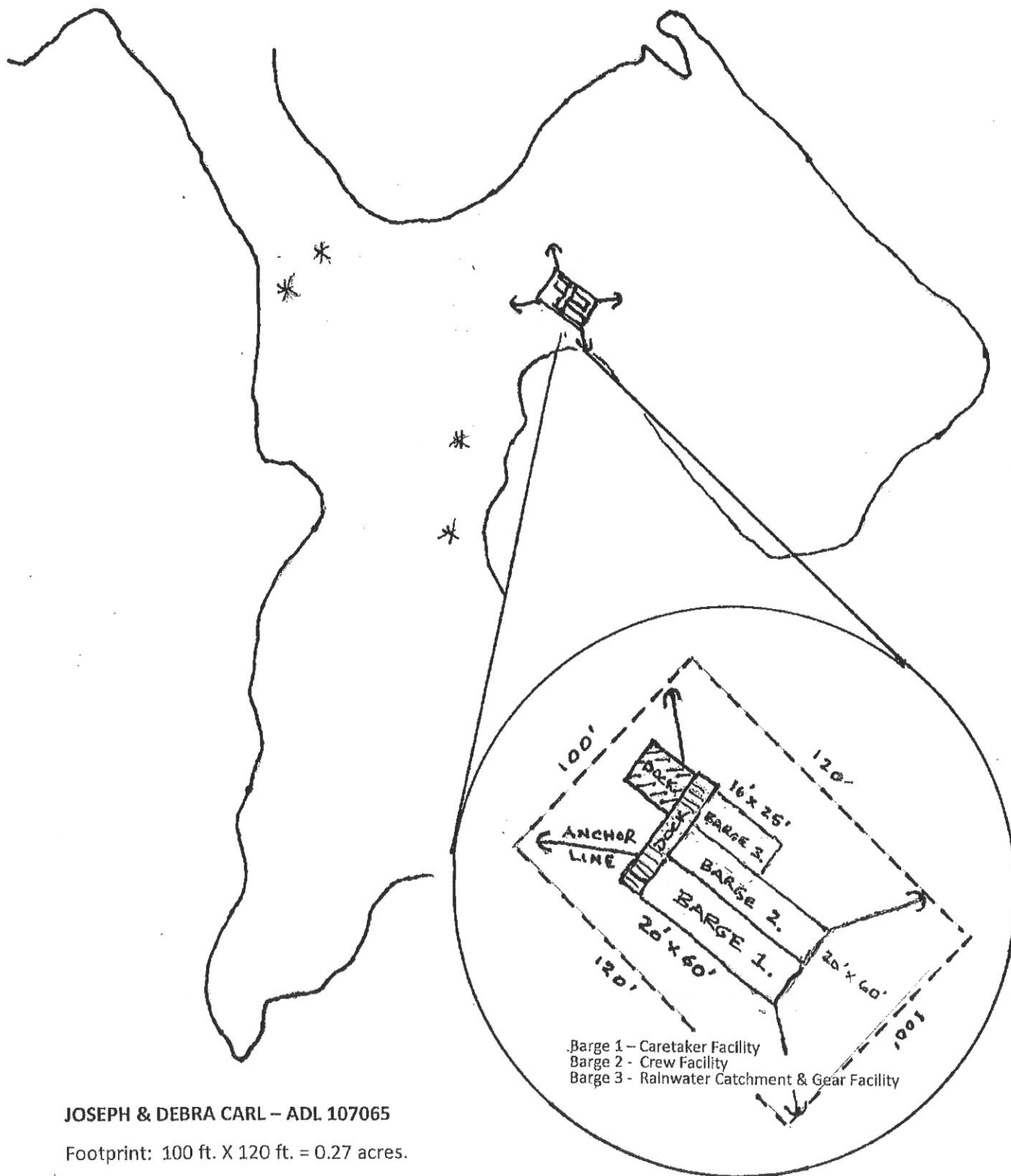
Pinch
50 FT

Island NARROW -
 10NDWEK NARROW -

NOTE

this site affords
 protection from winter
 winds used by small
 logging companies 20 years
 ago





JOSEPH & DEBRA CARL - ADL 107065

Footprint: 100 ft. X 120 ft. = 0.27 acres.

NE Corner:	55° 44.641 N	133° 20.205 W
SE Corner:	55° 44.629 N	133° 20.221 W
NW Corner:	55° 44.644 N	133° 20.254 W
NW Corner:	55° 44.653 N	133° 20.238 W

HUL 107064 Cross Section
Site 3 Watchman/Crew Barge
Farm House

